IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 27688 of 2007(U)

AGAINST THE ORDER IN IA.3613/2007 IN
OS.327/2003 of PRINCIPAL SUB COURT,KOLLAM
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PETITIONER:

M.NATARAJAN,
KUTTATHU VADAKKATHIL, NADUVATHUCHERY,
THEKKUMBHAGAM, CHAVARA SOUTH, KOLLAM DISTRICT.

BY ADV. SRI.K.P. SARVOTHAMAN

RESPONDENTS:
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1. **C.N.SHANMUGHAN,**
   SHANMUGHA NIVAS, NADUVATHUCHERY, CHAVARA SOUTH,
   KOLLAM DISTRICT COLLECTOR, KOLLAM.

2. **LEXMANAN,**
   VADAKKEYATTATHU VEEDU, NADUVATHUCHERY,
   THEKKUMBHAGAM.

3. **GOPINATHAN,**
   GODHANDA VILASAM, NADUVATHUCHERY, THEKKUMBHAGAM.

4. **DAYANANDAN MALOOTTU VADAKKETHIL,**
   NADUVATHUCHERY, CHAVARA SOUTH, THEKKUMBHAGAM.

5. **P.VASANTHARAJAN,**
   SAVITHRI NIVAS, MALI BHAGAM MURI, THEKKUMBHAGAM.

6. **N.DHARMAPALAN,**
   MONOOR THEKKETHIL VEEDU, NADUVATHUCHERY,
   THEKKUMBHAGAM.

7. **G.ARAVINDAKSHAN,**
   PREETHA BHAVAN, NADUVATHUCHERY, THEKKUMBHAGAM.

8. **K.SHAJI BABU,**
   SHYLAJA MANDIRAM, NADUVATHUCHERY, THEKKUMBHAGAM.

9. **MADHU,**

PUTHUMANA VEEDU, NADUVATHUCHERY,
CHAVARA SOUTH, THEKKUMBHAGAM.

10. KOCHU PILLAI,
VISWA BHAVAN, NADUVATHUCHERY, CHAVARA SOUTH,
THEKKUMBHAGAM.

11. GANGEYAN,
KAVILAYIL, NADUVATHUCHERY, CHAVARA SOUTH,
THEKKUMBHAGAM.

12. KARTHIKEYAN,
ULAKATTU VEEDU, NADUVATHUCHERY, CHAVARA SOUTH,
THEKKUMBHAGAM.

13. NEELAMBARAN,
PADIYANAYIL VEEDU, NADUVATHUCHERY,
CHAVARA SOUTH, THEKKUMBHAGAM.

14. RAMA RAJU,
RAJ BHAVAN, NADUVATHUCHERY, CHAVARA SOUTH,
THEKKUMBHAGAM.

15. T.THANKARAJ,
PONNODIYIL KIZHAKKETHIL VEEDU, NADUVATHUCHERY,
THEKKUMBHAGAM, CHAVARA SOUTH, KOLLAM DISTRICT.

16. VIJAYAN,
VIJAYA VILASAM, NADUVATHUCHERY, THEKKUMBHAGAM,
CHAVARA SOUTH, KOLLAM DISTRICT.

17. SHAH NARAYANAN,
SHAJI BHAVANAM, NADUVATHUCHERY, THEKKUMBHAGAM,
CHAVARA SOUTH, KOLLAM DISTRICT.

18. JAYARAJAN S.,
SUKUMARA MANDIRAM, NADUVATHUCHERY, THEKKUMBHAGAM,
CHAVARA SOUTH, KOLLAM DISTRICT.

19. R.MANILAL,
THAZHATHODIL MEKKUVEEDU, NADUVATHUCHERY,
THEKKUMBHAGAM, CHAVARA SOUTH, KOLLAM DISTRICT.

20. SRI. K.S.RAJEEV,
ADVOCATE, KOLLAM.
(ADVOCATE COMMISSIONER, APPOINTED BY THE SUB COURT, KOLLAM AS PER THE ORDER IN I.A.864/07 IN O.S.NO.327/03).

BY ADV. SRI. SUBHASH CYRIAC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 27688 OF 2007

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Dated this the 18th day of September, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P6 order and to cancel the appointment of 20th respondent as the Advocate Commissioner for the conduct of the election to the Managing Committee of Sree Guhanandhapuram Devaswam. As per the orders of the Court one Advocate Sri. K.S. Rajeev was appointed as the Commissioner to conduct the election to the first plaintiff, Devaswam. The petitioners moved an application to review that order and to issue a fresh Commission. The allegation against the Commissioner is that he belongs to the L.D.F. faction and he has been occupying certain positions in CPI(M) and therefore he would protect the interests of defendants 1 to 13 who belong to the LDF. The Court while passing the order directed the Commissioner to prepare a draft voters list and after giving copies of the draft voters list to the parties, an opportunity to be given to the parties for raising objections, if any,

regarding inclusion or non-inclusion of voters in the final list to be prepared by him. The Court also made it clear that the final voters list so prepared is subject to the approval of the Court and the Commissioner is to conduct election of the first plaintiff, Devaswam only after getting approval of the final voters list by the Court. So, in short, the Commissioner is acting at the behest of the Court with stringent conditions and opportunities are given to raise the objections and a final seal of the voters list can be had only after the approval by the Court. Merely, contending that a person belongs to a political party and he will act partially cannot be taken on its face value. Every citizen may have a political leniency and it does not mean that he will act against his conscience. When the whole election is conducted only under the supervision of the Court and after the Court having given sufficient safeguards to make it leak proof, at the fag end of the period, filing an application to change the Commissioner cannot be said to be one with good motive. The Court has also stated that the Commissioner is expected to act freely

and fairly by giving opportunity to all the parties concerned. Except the averments in the affidavit no evidence is adduced before Court to show that the Commissioner had exhibited any sort of partiality and there is no evidence at all before the Court to establish the averments placed before it. Merely on the basis of some averments in the affidavit the Court cannot jump to a conclusion that the Commissioner is incompetent to act as a person to conduct elections. I find that the Court below has approached the matter in the right perspective and it dismissed the application as well the review petition. I do not find any merit in this writ petition and therefore it is dismissed.

2. The parties are at liberty to raise contentions, if it is within time, and if everything is ready for the election then it goes without saying that the remedy is at a later stage.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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